

REMARKS

Claims 1-4 and 8-12 are all the claims pending in the application. The Examiner rejected claims 1, 3-4, 8-10, and 12. The Examiner indicated that claims 2 and 11 contain allowable subject matter.

AMENDMENTS TO THE CLAIMS

Claims 1-2 have been amended to correct minor grammatical errors. No change in scope is intended.

REJECTIONS UNDER 35 U.S.C. § 103(a)

A. Claims 1, 8, 10 and 12

Independent claims 1, 8, 10 and 12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,212,163 to Aida ("Aida") in view of U.S. Patent No. 5,953,344 to Dail ("Dail"). For at least the following reasons, Applicant respectfully traverses this rejection.

With respect to claims 1 and 10, the Examiner argues that:

Aida et al discloses a novel method and system for managing traffic between endpoints of an ATM network, according to the essential features of the claims. Aida et al. discloses a multiplexer (fig. 7, ATM exchanger) in which the user cells are assigned a virtual channel (Fig. 7 see downward direction from user to receiving end user) based on a given quality of service (Col. 5 lines 6- Col. 6 line 10) per the ATM standard. Multiple virtual channels may share a virtual path as is known the art for ATM transmission. Each virtual channel is assigned a buffer memory for the ATM cells to which assigned a priority corresponding to the given quality of service (See Fig. 1 and Col. 5 lines 17-27). As examples of connection admission control methods which perform processing in real-time, connection admission control methods which can be applied to a single service

category (especially those assuming Variable Bit Rate) are commonly known. In these methods, traffic parameters (peak cell rate and sustainable cell rate) reported from users are taken as inputs, and connection admission processing is performed within a standard period of time without depending on the number of calls or the traffic conditions. These methods are applied for each VP, and are carried out in the connection admission control section 1' shown in Fig. 7 by means of the flow procedure shown in Fig. 8 (Col. 1, lines 23 plus).

[Discussion of International Telecommunication Union ("ITU") Telecommunication Standards omitted]¹

However, Aida does not disclose expressly the step wherein a downward data rate from the ATM network to the users is greater than an upward data rate from the users to the network. In the same field of endeavor, Dail et al. (US#5,953,344) teaches in Fig. 2 illustrated the format of the information in both upstream and downstream cells, in which the downward data rate from the network to users greater than the upward data rate from the users to the network (See also Figs. 4 & 5; Col. 5, lines 39 plus).

. . . .

One skilled in the art would have recognized the need for increase the system performance and improving system bandwidth utilization, and would have applied Dail's teaching of the bandwidth allocation to a downward virtual path while holding the upward path to a fixed bandwidth to support asymmetrical bandwidth situation and managing QoS requirement into Aida's novel use of a the multi-class ATM connection admission control. Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to apply Dail's method and apparatus enabling enhanced throughput efficiency by use of

¹ Applicant notes that, while the Examiner cited ITU Telecommunication Standards, the Examiner has not relied on these Standards as forming a basis of the rejection. Accordingly, Applicant does not consider the recitation starting on the last partial paragraph of page 3 and ending in the first partial paragraph of page 4 as forming any part of the Examiner's rejection. To the extent the Examiner relies on these standards as forming the basis for a rejection of any claim in the next Office Action, Applicant submits such reliance is on a new ground of rejection and such an Office Action should not be made final.

dynamically adjustable mini-slots in access protocols for shared transmission media into Aida's method and device for multi-class ATM connection admission control with the motivation being to provide a method and system for managing the available network bandwidth more efficiently for situations requiring asymmetrical bandwidth.

(Office Action at pp. 3-5). With respect to claim 8 and 12, the Examiner argues that these claims correspond to rejected claims 1 and 10 and are, therefore, rejected on substantially the same grounds. (*Id.* at 5). The Examiner's stated rejection, however, fails to teach or suggest each element of the rejected claims. (MPEP 2131).

For example, consider claim 10. Independent claim 10 recites "a bandwidth allocated to a downward virtual path from the ATM network to one of the plurality of users, is variably controlled by the call control circuit" and "an upward virtual path, from one of the plurality of users to the ATM network, has a fixed bandwidth." Assuming *arguendo* that Aida's connection admission control section 1' corresponds to a call control circuit recited in claim 10, nothing in the Examiner's discussion of claim 10 relates to a teaching or suggestion of this connection admission control section 1' variably controlling "a bandwidth allocated to a downward virtual path from the ATM network to [a] user." Indeed, such a teaching is absent from Aida. Neither the written description in Aida nor FIGS. 7-8 suggest that connection admission control section 1' has any control over the allocation of bandwidth on a virtual path between a user and an ATM network. For at least this reason, Applicant submits that claim 10 is patentable over the combination of Aida and Dail. As claims 1 and 8 recites similar elements, Applicant submits that these claims are similarly patentable over the cited art.

With respect to claim 12, nothing in the Examiner's discussion of either Aida or Dail discusses a "method for controlling a telecommunication network ... comprising dynamically controlling a bandwidth of downward virtual paths by a controller located upstream, wherein a bandwidth of each upward virtual path is fixed." (*See* Office Action at pp. 3-4). The complete absence of an explanation of how the cited art is being read onto claim 12 is insufficient to support the Examiner's rejection. Accordingly, Applicant respectfully requests the Examiner to withdraw the rejection.

Finally, while the Examiner has provided a nearly one-half of one page asserting why one of ordinary skill in the art would combine Aida and Dail (*see* Office Action at p. 5), the Examiner has not tied such motivation to the teachings of either cited reference. As one element of the *prima facie* case of obviousness, the Examiner must show that there is some suggestion or motivation to modify the reference or to combine reference teachings. MPEP 2143.

Unsupported assertions of motivation that appear to be impermissibly drawn from the Applicant's own disclosure, such as that provided in the Examiner's rejection, are not sufficient to meet the Examiner's burden. Accordingly, Applicant submits that the rejected claims are patentable over the cited art for at least this additional reason.

B. Claims 3-4 and 9

Dependent claims 3-4 and 9 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Aida in view of Dail in further view of U.S. Patent No. 6,597,689 to Chiu ("Chiu"). As claims 3-4 and 9 depend from independent claims 1 and 8, respectively, and as

Chiu fails to cure the deficiencies of Aida and Dail discussed above, Applicant respectfully submits that claims 3-4 and 9 are patentable over the combination of the cited art at least based on their respective dependencies.

CONCLUSION

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

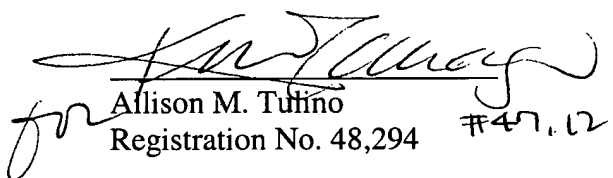
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